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Capital News Service (Md.)

EPA looks to apply Clean Water Act to more waterways

By JUSTINE MCDANIEL Capital News Service | Posted: Tuesday, March 25, 2014 6:14 pm

WASHINGTON — The Environmental Protection Agency is proposing to extend Clean Water Act protection to smaller bodies of water across the country, including waterways that feed into the Chesapeake Bay, in an effort to clarify which bodies of water are protected by the act.

Maryland environmentalists say the rule would close loopholes that have allowed for pollution and contamination of state water, including the drinking water of nearly 4 million residents.

“The fact that they are finally closing these loopholes ... is going to be really significant for Maryland waterways,” said Joanna Diamond, director of Environment Maryland.

Approximately 17,000 miles of water in Maryland are unprotected, she said. More than half of Maryland's streams are at risk for pollution, according to the U.S. Geological Survey's National Hydrography Dataset.

One in 3 Americans gets drinking water from systems that partially draw from the types of streams that would be protected under the rule, the EPA said in a statement.

The agency says the rule will clear up longtime confusion over Clean Water Act protection, which arose after two Supreme Court decisions in the 2000s provided a muddled opinion on whether tributaries and streams fell under the act's jurisdiction.

"We are clarifying protection for the upstream waters that are absolutely vital to downstream communities," EPA Administrator Gina McCarthy said in a statement.

Many conservatives view it as an overreach of EPA authority. Like the conservative plurality in the 2006 court decision, they more narrowly interpret the definition of the phrase "the waters of the United States," which is how the act defines the areas it covers.

Trade organizations like the National Association of Home Builders and the National Rural Electric Cooperative Association released statements opposing the rule, as did Bob Stallman, president of the American Farm Bureau Federation.

McCarthy said in comments and in a video released by the agency that the rule will not expand the coverage of the Clean Water Act or protect new types of waters.

More than 70 Maryland businesses have signed on with Environment Maryland in support of the rule.

The environmental organization has been working on the issue for at least a decade, and there will be "dire consequences" if the rule is not passed, Diamond said.

"We want to make sure that the EPA both feels supported in the rule itself and also just sort of know(s) that Marylanders are on their side for proposing a strong rule," she said.

Maryland Sen. Ben Cardin, chairman of the Senate Water and Wildlife Subcommittee praised the decision.

"The importance of the disputed streams and wetlands is on display every day in the Chesapeake Bay watershed. The shoreline of the Chesapeake and its tidal tributaries stretch for over 2,000 miles and more than 100,000 streams and rivers and thousands of acres of wetlands provide the freshwater that flows into the Bay," he said in a statement.

Other national and state environmental groups praised the rule.

"The Chesapeake Bay Foundation welcomes the proposed new rule, which we expect to play an

important role in protecting local waterways. The health of seasonal and rain-dependent streams and wetlands near streams and rivers is crucial to the health of downstream waterways,” said Chesapeake Bay Foundation Vice President Kim Coble in a statement.

The draft rule will be open for a 90-day public comment period once it is published in the Federal Register.

Washington Post

EPA proposes greater protections for streams, wetlands under Clean Water Act

By Juliet Eilperin and Darryl Fears, Published: March 25

The Environmental Protection Agency proposed a rule Tuesday that would give the federal government regulatory authority over millions of acres of wetlands and about 2 million miles of streams.

The proposal, which is subject to a 90-day comment period slated to begin in a few weeks, would lead to stricter pollution controls on some of these areas and aims to resolve a long-running legal battle over how to apply the Clean Water Act to the nation’s intermittent and ephemeral streams and wetlands.

“These places are where we get our drinking water, and where we hunt, fish, swim and play,” EPA Administrator Gina McCarthy said as she announced the proposed rule.

Environmentalists argue that these waters are critical to both fish and waterfowl, even if they are dry for parts of the year. Land developers and some farmers, by contrast, say the process of obtaining a federal permit to conduct their activities imposes an unnecessary burden on their operations.

The question of which isolated streams and wetlands qualify for protection under the Clean Water Act has been in dispute for a decade. The Supreme Court has issued two decisions, and the George W. Bush administration issued guidance in 2003 and 2008 limiting the scope of the act. The Obama administration delayed issuing a rule on the matter during its first term in part because of fierce objections from business interests.

All ephemeral and intermittent streams, and the wetlands that are connected or next to them, will be subject to federal oversight under the proposed rule. The agency is asking for public input on whether to require federal permits for a group of “other waters,” mainly wetlands such as those in the prairie pothole region.

In a telephone interview with reporters, McCarthy sought to address concerns from farmers and

developers that the proposed rule is an overreach, expanding the jurisdiction of the Clean Water Act.

“They were concerned about an expansion of the Clean Water Act — there has not been,” she said. The farm and developing lobbies were also concerned that current exemptions they enjoy under the act would be eliminated, and under the rule they would not.

Jo-Ellen Darcy, the assistant secretary of the Army civil works, which worked with the EPA in writing the proposal, also sought to reassure opponents, asserting that they worked with the Agriculture Department in its development.

“In the last three years, this has been an unprecedented undertaking for the two agencies,” Darcy said. She said some farming practices over that time actually helped improve water quality, and those were taken into consideration.

About 60 percent of the miles making up U.S. streams only flow seasonally, or after rain.

“Today’s proposal speaks to the heart of the Clean Water Act — making rivers more fishable and swimmable,” said Trout Unlimited President Chris Wood in a statement. “The waters affected by today’s proposal provide vital spawning and rearing habitat for trout and salmon. Simply stated, the proposal will make fishing better, and anglers should support it.”

Intermittent and ephemeral streams provide critical fish habitat out West. They account for 94 percent of Arizona’s streams, according to the EPA, and 88 percent of those in New Mexico. These streams provide the flow for larger rivers and spawning and rearing habitat for young fish and insects; they also help to determine the quality of downstream habitat for fish.

Under the rule, the EPA and U.S. Army Corps of Engineers will have to evaluate the environmental impact of an activity that could impair one of these waterways, though the Clean Water Act exempts farming activity that does not involve discharging a pollutant. In addition, the new proposal exempts farmers who are undertaking one of 53 approved conservation measures from having to seek a federal discharge or fill permit.

Kevin Kelly, president of the National Association of Home Builders, criticized the rule as federal overreach.

“EPA was told to make changes to the rule so that everyone understands exactly when a builder needs a federal wetlands permit before turning the first shovel of dirt,” said Kelly, a home builder and developer from Wilmington, Del. “Instead, EPA has added just about everything into its jurisdiction by expanding the definition of a ‘tributary’ — even ditches and man-made canals, or any other feature that a regulator determines to have a bed, bank and high-water mark. It’s a waste of taxpayer resources to treat a rainwater ditch with the same scrutiny as we would the Delaware Bay.”

Whit Fosburgh, president and chief executive of the nonprofit Theodore Roosevelt Conservation Partnership of hunting and fishing organizations, extolled the virtue of clean water.

“Headwater streams . . . that is where all the fish come from,” he said. “All of them spawn in headwater streams triggered by snow melt and other runoff. We’ll hear a lot of talk about the economic impact of the rule.” Hunting and fishing is a \$2-billion-a-year enterprise, generating more than \$125 billion in state and federal taxes.

Fosburgh applauded the EPA and Army Corps of Engineers for the proposed rule. “We actually wanted to make it even stronger,” he said.

More from The Washington Post: EPA takes step toward restricting Pebble Mine project on Alaska’s Bristol Bay Alaska to Florida, 21 attorney generals fight to halt Chesapeake Bay cleanup EPA moves to clarify Clean Water Act protection.

West Virginia Metro News

Morrissey: Focus is now on a different question for the EPA Spruce Mine case

By [Shauna Johnson](#) in [News](#) | March 25, 2014 at 11:08AM

CHARLESTON, W.Va. — The state’s attorney general says a U.S. district court will now be asked to weigh in on a separate question tied to the federal Environmental Protection Agency’s authority to retroactively veto permits under the Clean Water Act.

Earlier this week, the U.S. Supreme Court refused to hear the case involving a permit the EPA pulled years after the U.S. Army Corps of Engineers issued it for Mingo Logan Coal Company’s Spruce Mine – a massive surface mine project – in Logan County.

However, Patrick Morrissey, West Virginia’s attorney general, said that is not the end of the case since the U.S. Supreme Court’s move effectively addressed the EPA’s procedure and not the EPA’s justification.

“The whole debate shifts to whether the veto was based on substantially new information of adverse environmental effect. That’s something the district court is going to sort out. That’s a fact-based inquiry,” he said.

“I think that there’s going to be a robust debate on that point. The company believes that they have very strong evidence that there was no such new information. I think, given the procedural history here, there’s a reason to question the EPA’s motives.”

Officials with Arch Coal, the parent company of Mingo Logan Coal, have indicated they’ll take

the case back to the U.S. District Court for a ruling on the merits now that the U.S. Supreme Court has passed, despite arguments for a hearing from 27 state attorneys general, including Morrissey.

“No one is questioning that the EPA shouldn’t have a role in this process. The question is when and where,” said Morrissey on Tuesday’s MetroNews “Talkline.”

“We think, in this case, that they went beyond where even the state DEP (Department of Environmental Protection) would be normally permitted to engage.”

Charleston Gazette

'Trace amounts' of MCHM found in Elk plant water

By Ken Ward Jr.

CHARLESTON, W.Va. -- Water being distributed from West Virginia American Water's Elk River treatment plant contains what the company called "trace amounts" of the chemical MCHM, according to new test results made public Tuesday following questions raised by the independent scientific team investigating the impact of the Jan. 9 leak at Freedom Industries.

The testing of samples taken Friday and Saturday showed levels of the chemical between 0.42 parts per billion and 0.60 parts per billion in water that had completed various stages of filtering and treatment. Those levels are far below the 1-part-per-million health "screening level" devised by the U.S. Centers for Disease Control and Prevention. But outside experts have strongly criticized the CDC's work.

In a prepared statement, West Virginia American said the concentrations found "are so low that they are considered estimates by the laboratory because they are too low to be quantified."

West Virginia American conducted the additional testing - and sent it to a different lab located out of state - at the request of the West Virginia Testing Assessment Project, a team of outside experts hired by the Tomblin administration to examine the chemical leak's impacts and government responses to the incident.

Andrew Whelton, a University of South Alabama environmental engineer who is co-leading the WVTAP effort, said the new test results are important, despite uncertainties about the exact concentrations being reported.

"I don't know that it's as critical that we can't nail down the exact concentration as it is to know that [the chemical] is present," Whelton said. "When you're trying to decontaminate a water system, you want to remove all of the contaminated water."

Word of the new tests first came Tuesday morning, in a prepared statement in which the WVTAP said that separate sampling on March 18 found a level of 4-MCHM - one component of the Freedom leak - that was greater than 0.5 parts per billion but less than 1.0 parts per billion in the tap water of a home located near West Virginia American's Elk River treatment plant. Testing that same day - using a method that would detect levels as low as 0.5 parts per billion - did not detect the chemical in Elk River water entering the treatment plant.

"This finding implied that there could be a source of 4-MCHM in the water treatment facility," a news release from the WVTAP team said.

Whelton's group is scheduled on Friday to release the findings of its initial water testing at 10 homes across the region, aimed at figuring out if MCHM or other chemicals from the spill somehow remain in the water system or have become absorbed by home plumbing systems. The WVTAP has scheduled a public meeting from 9:30 a.m. to 3 p.m. in the Ferrell Hall Auditorium at West Virginia State University in Institute to release those results.

But the new home testing result made public Tuesday was not part of the 10-home survey, and was taken to help WVTAP scientists develop additional background on conditions in the Elk River. The samples were taken by the West Virginia National Guard and sent to the WVTAP's partner laboratory, Eurofins, in Lancaster, Pa., for analysis.

After receiving positive results for MCHM on March 21, the WVTAP team asked West Virginia American Water to conduct additional sampling before, within and following the company's treatment plant. The water company did so, and those results were released early Tuesday afternoon.

The water company said multiple samples were collected at various stages before, during and after the water treatment process. Those stages including raw water from the Elk River, water that has been settled in the plant's clarifiers, filtered water and finished water that had completed all stages of treatment. Seven sets of samples were taken two hours apart at six different points, for a total of 42 samples, the water company said.

The testing did not find MCHM in raw water entering the plant or in settled water, but did detect the chemical in 10 of 14 filtered samples and in six of seven finished water samples, according to a summary of the results included in West Virginia American's news release.

"It is not unexpected that MCHM effectively captured in filter material may show up in trace amounts in water leaving the plant," West Virginia American President Jeff McIntyre said.

McIntyre noted that the company had committed to changing its carbon filters, and that the process for that was set to begin on April 1.

Just last week, though, McIntyre had told the Gazette that the plant's filters "have not been impacted" by the chemical leak and were being changed only because of a public "perception" that they needed to be changed.

The WVTAP project was launched last month by Gov. Earl Ray Tomblin amid significant public pressure over concerns about lingering and long-term impacts of the leak from the Freedom Industries chemical tank farm along the Elk River, just 1.5 miles upstream from the water company's regional plant intake.

Previously, state government officials had tested water only at West Virginia American's Elk River plant, and at public locations such as fire hydrants and schools. Whelton's research aims to figure out if something about different sorts of plumbing systems has caused MCHM or other spill chemicals to be absorbed into those plumbing systems, and periodically re-released into residents' drinking water.

In its news release Tuesday, the WVTAP team provided MCHM water sampling data that included information on detection of the chemical at far lower concentrations than state officials and the water company have previously been providing to the public.

State officials and the water company have trumpeted the "non-detect" results from periodic tests that would detect and report chemical concentrations as low as 10 parts per billion and, starting in late February, as low as 2 parts per billion. In early March, for example, West Virginia American Water issued a news release that announced all of its testing results were below the 2-part-per-billion level that labs were reporting.

"Since Feb. 14, we have worked with laboratories to test down to 2 ppb or less of MCHM, and as of Feb. 25, levels of the chemical are below this non-detect threshold throughout the water distribution system," McIntyre said. "More than 30 employees from American Water subsidiaries in Kentucky, Pennsylvania, Indiana and Illinois have worked tirelessly with our West Virginia employees to flush approximately 2,000 small dead-end water mains in the system. Now that we no longer have detectable levels of MCHM throughout our distribution system and have assisted Queen Shoals PSD to also achieve this in their system, we have concluded our systematic flushing operations in the Kanawha Valley."

When Tomblin lifted an official "state of emergency" on Feb. 28, the formal proclamation doing so noted that testing of the water company's distribution system "indicates that the contaminants are presently at non-detectable levels below 2 parts per billion" at the treatment plant, hospitals, schools and other locations.

Testing for extremely small concentrations of chemicals can be very difficult, and, generally speaking, the lower the levels that are being detected, the less confident scientists are in whether the concentrations shown on lab results are the true concentrations.

Previously, state officials and the water company have been giving the public data about one detection level, called the reporting limit or the minimum reporting limit, or MRL. This is considered the lowest concentration at which a substance can be detected in a sample and its concentration can be reported with a reasonable degree of accuracy and precision.

Another number chemists use is called the method detection level or method detection limit,

known as the MDL. This is the value at which a laboratory can theoretically differentiate a value from zero. This means the chemical was detected by the laboratory, but the exact value of how much chemical was present could not be determined.

For example, when the state was reporting to the public test results down to 2 parts per billion of MCHM, that was the laboratory's MRL. The MDL for those tests was 0.8 parts per billion and, later, as testing improved even more, 0.4 parts per billion, officials have said. The public, though, was only being given the MRL results. So if a laboratory detected somewhere between 0.4 and 2.0 parts per billion, the only results made public were the "non-detect" results for the 2.0 ppb MRL.

Lawrence Messina, a spokesman for the state Department of Military Affairs and Public Safety, said the state's contracted laboratory was providing state officials only with the MRL results, and was not providing the MDL results. Messina said lab officials expressed concerns about "the accuracy of readings" at the MDL, including "the potential for false positives."

"The state has consistently sought results that are accurate and reliable, and has consistently shared all such results with the public," Messina said.

Whelton has said that Eurofins, one of two labs being used by the state-funded but independent WVTAP project, has an MRL of 1 part per billion and an MDL of 0.5 parts per billion. The home results reported in Tuesday's news release indicated some level of 4-MCHM found in the tap water above the 0.5 ppb MDL, but below the 1 ppb MRL. Whelton said the WVTAP will continue to provide the public with both sets of results for all of its testing.

"Certainly, knowing if the chemical was present below the MRL but above the MDL is important information when interpreting chemical analysis results," Whelton said in an email message. "While chemical presence or presence/absence information is not quantitative, it can provide information about whether the chemical is present at all."

In an interview, Whelton added, "It's important to define what 'non-detect' means. 'Non-detect' means that the instrumentation and the methods used could not detect anything in the water. That doesn't mean it's not in the water."

Danville Register and Bee

Environmental groups push Duke to clean up ash ponds at rally

By JOHN R. CRANE

jcrane@registerbee.com (434) 791-7987 | Posted: Saturday, March 22, 2014 10:08 pm

EDEN, N.C. – Clean-water advocates held a rally on World Water Day at Island Ford Landing along the Smith River here Saturday, where attendees enjoyed the warm weather, hot dogs and bluegrass/traditional music by a trio of talented young girls.

Several environmental organizations hosted the event to call on Duke Energy to remove its coal ash ponds from waterways and provide information on how it plans to clean up last month's coal ash spill at Duke's old Dan River Steam Station in Eden, which dumped 39,000 tons of the toxic brew into the Dan River on Feb. 2.

The rally's purpose was also to celebrate the parts of the Dan River that were not polluted by the spill, as well as the other rivers throughout the Dan River Basin, said Jenny Edwards, program manager with the Dan River Basin Association. Edwards said she encourages residents and visitors to take advantage of the recreational activities the Dan River Basin's waterways – including the Dan River and the Smith River – have to offer.

"They can help us by continuing to fish and paddle and enjoy the rivers," Edwards said during an interview at the event.

The rally was organized and held by the DRBA, Southern Alliance for Clean Energy, Appalachian Voices and the North Carolina Conservation Network.

About 100 people attended the event, where the smell of grilling hot dogs wafted through the air, participants visited informational booths set up by environmental groups and the Dan River Girls from Winston-Salem, N.C., sang and played bluegrass and traditional music.

The band included the Burdette sisters – Fiona, 15, playing the mandolin and cello; Ellie, 12, the bass; and Jessie, 10, the fiddle.

Two Eden residents interviewed by the Danville Register & Bee said they attended the rally because of all the negative press the coal ash spill has brought upon Eden.

For DRBA member Sylvia Grogan, the event provided an opportunity to highlight the positive attributes the Dan River and other rivers in the Dan River Basin have to offer. It's to "counter the massive negative publicity that our community has gotten," said Grogan, whose late husband John Grogan served as Eden's mayor for eight years.

Carol Gwynn, an Eden native and resident, said she was glad the coal ash spill happened because it has brought attention to Duke Energy's coal ash ponds around North Carolina. The incident and its publicity have forced the company and state regulators to take action to clean up the ponds, said Gwynn, who plans to join the DRBA.

"I have loved the outdoors and nature my entire life," Gwynn said.

Amy Adams, North Carolina campaign coordinator for the DRBA, pointed out that the coal ash spill did not pollute the water in Eden. The incident happened downstream of the city, Adams said.

The spill coated the bottom of the Dan River with the lava-like mixture for 70 miles, including the portion running through Danville. The Dan River is more than 150 miles long, said Brian Williams, program manager for the DRBA. The Dan River Basin covers 3,300 square miles along the border of southern central Virginia and northern central North Carolina.

Adams and others praised the recent decision by the North Carolina Department of Environment and Natural Resources to withdraw a proposed settlement that would have permitted Duke Energy to pay a paltry fine – of just \$99,000 – for past environmental violations. The deal also would not have required the company to clean up its pollution, The Associated Press reported Friday afternoon.

“In light of all the recent developments, it makes sense to walk away from a previous settlement that doesn’t take into account the most recent violations,” Adams said.

Joan Walker, high risk energy coordinator for the Southern Alliance for Clean Energy in Asheville, N.C., said of the DENR’s decision, “We’re very happy with that. We’re glad that’s been chucked out the window.”

Walker lives downstream of Duke Energy’s Asheville Power Station near the French Broad River, which has been leaking arsenic into the river in levels exceeding standards under the Clean Water Act. Though she uses the river for recreation – swimming and boating – she does not consume fish from it, Walker said.

The site is one of the first to trigger the lawsuits filed by environmental groups to get Duke to abide by the Clean Water Act, Walker said.

Duke operates 14 facilities in North Carolina with coal ash dumps that have been cited for polluting groundwater, according to the AP. The company was also cited last week for illegally pumping 61 million gallons of contaminated water from two coal ash dumps into a canal leading to the Cape Fear River, the AP reported.

Washington Post

Bill would increase federal pay by 3.3 percent next year

By Josh Hicks, Updated: March 26 at 6:00 am

A group of House Democrats plans to introduce a bill on Wednesday that would boost federal-worker pay by 3.3 percent next year.

Rep. Gerry Connolly (D-Va.), who crafted the legislation, said the proposal is overdue after a

federal-employee salary freeze that lasted more than three years and the sequester-related furloughs that cut into the wages of some agencies' workers.

Four other House Democrats, Jim Moran (Va.), Elijah Cummings (Md.), John Tierney (Mass.) and Matt Cartwright (Pa.), plan to cosponsor the bill.

In a joint statement on the measure, Connolly said House conservatives have “demonized and demoralized” the federal workforce, adding that his measure would “begin repairing the significant damage that has been wrought on our overworked, underpaid and underappreciated career civil service.”

The bill, which calls for a more generous salary increase than President Obama proposed for federal workers next year, has little chance of garnering widespread Republican support. The White House's 2015 budget plan requested a lower 1 percent pay raise for federal employees.

Obama froze federal pay rates for two years starting in 2011, and Congress extended the hold through 2013. Federal workers still received performance awards and higher compensation through promotions during that time.

The president in December ordered a 1 percent pay increase that kicked in this year, but inflation rose at a higher rate of 1.5 percent in 2013, according to the Bureau of Labor Statistics' consumer-price index.

Federal-worker unions have praised the Connolly bill. The National Treasury Employees Union and the National Active and Retired Federal Employees said the pay increase would help the government attract and retain the best talent.

NTEU president Colleen M. Kelley said in a statement that the measure's backers “understand the vital importance of attracting and retaining a highly qualified and experienced federal workforce that is fairly compensated.”

The labor groups contend that federal workers have contributed heavily toward deficit reduction in recent years, through the three-year pay freeze and a recent increase in the amount of money that future hires of the federal government have to pay toward their retirement plans.

Moran said in the statement that federal workers play a “vital role” in the lives of Americans, adding: “These are the men and women finding lifesaving cures at NIH, catching criminals, supporting our troops and protecting the environment.”

Chesapeake Bay Journal

D.C. mayoral candidates take their stances on the environment, Anacostia

By Whitney Pipkin on March 24, 2014

D.C. voters had the chance to hear from six mayoral candidates on Friday night about their stances on environmental issues at a forum arranged by the city's growing sustainability community and held not far from the Anacostia River.

Topics ranged from the culpability of coal power in the city to the merits of continuing a costly tunnel project that would reduce polluted runoff into the Anacostia and Potomac rivers. Of the candidates that participated, three currently serve on D.C.'s City Council — Councilmembers Jack Evans, Vincent Orange and Tommy Wells. Along with incumbent Mayor Vincent Gray, they came across as the most informed on environmental issues, especially those on which some of them had presented or debated bills.

D.C. Councilmember Muriel Bowser was invited but did not participate in the forum held in an unfinished former factory building that will soon be home to [Ideaspace](#) at the Navy Yard.

The event drew some 200 people on an evening when pleasant weather — and plenty of other issues to consider when voting for D.C.'s mayor — may have kept people away.

Ed and Carole Kaminski, who live in Southeast D.C., said they were eager to hear from the candidates on environmental topics on which they've kept informed as residents. But they weren't sure how much those issues would weigh in other voters' decisions.

"If you came here from other places, you don't know about the problems," Ed Kaminski said, noting the water quality issues in the city's two rivers.

What was missing from the evening's debate was any mention of the issue that has dominated discussions about the mayoral race: whether incumbent Mayor Gray knew about an illegal [shadow campaign](#) that helped raise funds for his last election and could get him indicted in federal court.

Early voting has already begun for D.C.'s April 1 Democratic primary, which functions as somewhat of a general election in the heavily Democratic city.

But D.C. voters are increasingly aware of environmental issues and how the new mayor's stance on water quality, transportation and renewable energy could impact major decisions facing the city.

Evans, who has been on the council for 23 years, said cleaning up the two rivers will require a mayor who can work with neighboring Virginia and Maryland, which, he noted, is home to 82

percent of the Anacostia River that winds its way into D.C.

“We have to work with Maryland, because we can be as clean as we want and never achieve those goals. Virginia is very difficult. They wanted to do everything they could to pollute the air, because that’s the way they do things in Virginia,” Evans said.

Carlos Allen, a Mount Pleasant property manager and underdog mayoral candidate, chose to address environmental issues through the lens of economic inequality. He said D.C. residents must first have job security because when they are “in survival mode — they’re not going to care about the environment.”

Mayor Gray told the audience that he doesn’t have to say what he would do when it comes to the environment, “I can tell you what I’ve done.”

Gray’s comprehensive Sustainable DC initiative released more than a year ago lays out 143 “green” initiatives to be attained by 2032, including making the Anacostia River swimmable and fishable. Until recently, Gray served as chair of the Chesapeake Bay Program’s Executive Council and has often touted the city’s leadership in green roofs or in LEED-certified buildings.

Councilman Orange said he would essentially “stay the course” of this sustainability plan for D.C.

Councilman Wells seemed determined throughout the evening to come across as the most informed and aggressive candidate on environmental issues. He expressed a vision for a “LEED-certified city,” a certification that does not yet exist (though neighborhoods can be certified) but that Wells said describes how he views the District as “a holistic organism.”

“You can’t really compartmentalize these things,” he added.

Wells went on to say that, while he supports building green infrastructure in the city, he does not support changing the city’s consent order with the U.S. EPA to reduce or postpone its \$1.6 billion tunnels project that’s currently underway. The huge underground tunnels are designed to store overflow from the city’s combined sewage and stormwater systems until it can be treated at Blue Plains Sewage Treatment Plant.

“We have to do every inch of that tunnel. The idea of delaying it at all and putting more sewage into the river is not what I support,” he said.

(None of the other candidates addressed this issue, and Wells brought it up of his own volition. The decision will ultimately be made by DC Water and the EPA.)

A question from the audience brought up another complex river issue in the District that tested the candidates’ knowledge. Brooke DeRenzis, a project director at DC Appleseed and Ward 1 resident, asked whether the candidates would ensure that toxic sediment in the Anacostia River is cleaned up in a timely manner. A newly formed coalition of environmental groups, spearheaded in part by former D.C. mayor Anthony Williams — who co-moderated the forum —

is helping to make toxics cleanup a top priority in restoring the Anacostia River.

Evans answered the question by mentioning again that the District cannot clean up the river on its own, while Wells seemed to grasp the issue at greater depth and understand that the question was aimed at a component of the cleanup that falls squarely in D.C.'s lap.

“What you’re asking us to do is that we have to go through the sediment and we have to figure out what the toxics are and then identify who is responsible for getting them there... That’s going to be politically tough and you’ll need someone who’s not beholden to the corporations,” he said.

Later, in response to another question about toxics, Wells said, “We don’t have to wait for Maryland to go after these folks to pay for the cleanup of the river.”

The candidates seemed to mostly agree on a question about whether coal should be prohibited as a source of power in the District, though they differed on the timelines for implementing such a ban. The same was true for a proposed ban on polystyrene that is currently part of a broader bill in the District, which has already implemented a 5-cent plastic bag tax to help reduce pollution to the two rivers and generate funds for their cleanup.

And nearly all of them followed Evans’ lead to take issue with the presence of small plastic water bottles at the forum.

“I’m amazed these are sitting out here,” Evans said, holding up a plastic water bottle, one of many that were set out to keep the candidates hydrated. “Half the landfills in America are filled with these things. You want to get serious about the environment? Take on this industry.”

National Public Radio

Toxic Chemical Dioxane Detected In More Water Supplies (audio link)

West Virginia's drinking water crisis earlier this year highlighted an unsettling truth about tap water: Treatment plants test for only a fraction of the chemicals in use.

BNA Daily Environment Report

House Passes Bill to Reinstate Stream Buffer Zone Rule for Coal Mining

By Dean Scott

March 25 — The House March 25 passed a bill (H.R. 2824) to block the Interior Department from imposing more stringent buffer zones to protect streams from coal ash and other waste produced by coal mining operations.

Introduced by Republican Reps. Bill Johnson (Ohio) and Doug Lamborn (Colo.), the Preventing Government Waste and Protecting Coal

Mining Jobs in America bill would direct states to revert to a less stringent 2008 Bush administration stream buffer zone rule, which a federal court vacated in February.

The bill, which faces an uphill battle in the Senate and has been threatened with a White House veto, also would bar the Interior Department from updating the reinstated 2008 requirements for five years.

The Interior Department's Office of Surface Mining Reclamation and Enforcement has been working for five years to revise the Bush-era stream protection rule. The 2008 rule revamped—and environmental groups argue, weakened—the 1983 requirements set by the Reagan administration regarding how close mining waste may be dumped to streams.

The surface mining office is poised to issue a new proposal in August, according to the fall semi-annual regulatory agenda (230 DEN A-3, 11/29/13).

Chairman Seeks ‘Unredacted’ Report

Earlier in the day, House Natural Resources Committee Chairman Doc Hastings (R-Wash.) issued a subpoena to the deputy inspector of the Interior Department for an “unredacted” version of an Interior Department Office of Inspector General report. The report examined whether Obama administration Interior officials sought to minimize job losses that might stem from strengthening the stream buffer rule.

The IG report examined whether the department pressured contractors to use the less-stringent 2008 rule as a baseline to minimize potential job losses, rather than the 1983 Reagan-era rule. But the report included redacted sections—including one titled “Issues with the New Contract”—that Hastings said hinted at “significant ongoing problems” with the current administration's rulemaking (247 DEN A-9, 12/24/13).

Hastings touted the bill to colleagues on the floor March 25, arguing that it would “free up job

creation” by providing certainty for coal mining operations. Environmental groups oppose the bill reinstating the 2008 rule, Hastings said, because they “want to use loopholes” more readily available under the 1983 rule to take coal mining operations to court.

Two Democrats' Amendments Rejected

Before passing the bill by a vote of 229-192, the House rejected two amendments, both from Democrats.

One by Rep. Matt Cartwright (D-Pa.) that would have protected states' authority to issue their own stream buffer zones, including those that are more stringent than the federal requirements, was defeated by a vote of 196-225.

An amendment by Rep. Alan Lowenthal (D-Calif.) would have reinstated the 100-foot buffer zone and other requirements of the Reagan-era 1983 rule but also allow states to enforce their own more stringent buffer requirements. It fell by a vote of 188-231.

In February, a district court vacated the 2008 stream buffer requirements, finding that Interior's Office of Surface Mining failed to formally consult with the Fish and Wildlife Service in violation of consultation requirements of the Endangered Species Act (*Nat'l Parks Conservation Ass'n v. Jewell*, D.D.C., No. 1:09-cv-00115; [36 DEN A-1, 2/24/14](#)).

Prior to that federal district court decision, the 2008 rule essentially hadn't been implemented in most states due to the uncertainty posed by then-pending litigation. Instead, most states have enforced the 1983 version of the rule, which prohibits the dumping of mining waste within 100 feet of a stream.

Waiver Requirements Changed

The 2008 rule didn't entirely eliminate the buffer zone requirement but rather established different criteria than did the 1983 rule for coal mine operators to more easily obtain a waiver from the requirements.

In its March 5 [veto threat](#), the White House warned that by reinstating the 2008 rule, the bill “inadequately protects drinking water and watersheds from strip mining” and would limit states' ability to tailor stream safeguards of their own ([44 DEN A-14, 3/6/14](#)).
